

**REMARKS**

Claims 1-20 are currently pending.

Claims 1, 2, 15, 17, and 18 are currently amended. None of the amendments to claims 1, 15, or 18 constitute new matter.

The Examiner has objected to claim 15 due to an obvious typographical error. The Examiner has rejected claims 1-20 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner has rejected claims 1, 3, 6, 8-10, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,620,748 to Birkhofer *et al.* ("Birkhofer"). For reasons detailed below, the objection and rejections should be withdrawn and the claims allowed to issue. Entry of the foregoing amendments is respectfully requested.

**1. The Objection to Claim 15 Should Be Withdrawn**

The Examiner has objected claim 15 due to an obvious typographical error. Claim 15 has been amended to correct this error. In view of this amendment, the objection to claim 15 should be withdrawn.

**2. The Claims are Definite**

The Examiner has rejected claims 1-20 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner states "the phrase 'wherein the pelt is delimed and/or bated' is misleading because step (a) does not delime of [sic] bate the pelt." Claim 1 has been amended to recite a "pelt, which has been delimed and/or bated." Applicants respectfully submit that claim 1

now clearly indicates that the deliming and/or bating occurs prior to the steps of the claim, and the rejection to claim 1 should be withdrawn.

Claim 2 has also been rejected as indefinite. The Examiner states:

“Regarding claim 2, it appears that the applicant is adding a synthetic tanning agent and dye with the fat liquor, stirring for about 3 hours, and then adding another tanning agent (or more of the same synthetic tanning agent). Is that a correct analysis?”

The Examiner appears to be confused regarding when the synthetic tanning agent and dye of claim 2 are added. Claim 2 has been amended to recite “wherein a synthetic tanning agent and a dye are added to the fat liquor in step (a) prior to stirring in step (b).” Applicants respectfully submit that the sequence of steps in claim 2, as amended, now clearly indicate that the synthetic tanning agent and dye are added to the fatliquor before step (b). Accordingly, claim 2 is definite, and the rejection should be withdrawn.

The Examiner also argues that claim 3 is indefinite because complexing agents and tanning agents are the same, and that claim 3 does not further limit step (c) of claim 1. Complexing agents differ from tanning agents in that complexing agents, unlike tanning agents, prevent the precipitation of chromium or other “mineral tanning salts,” and aid in the uptake of chromium or other mineral during the tanning process. See Chandrasekaran, *Leather Science*, 1987, vol. 34(4)(5)(6):91-101, 91, already of record (discussing “addition of some auxiliaries, which may be expected to have the ability to complex with mineral tanning salts and other active sites” and the research conducted on “such types of auxiliaries.”). These “auxiliaries” are used to increase mineral uptake by “active sites” in the hides, and result in greater mineral uptake and a decrease mineral waste in the effluent. *Id.* Applicants submit that complexing agents are well known in the art, and that a person of ordinary skill in the art would recognize the difference

between a complexing agent and a tanning agent. Accordingly, claim 3 further limits step (c) of claim 1, and the rejection should be withdrawn.

The Examiner also argues that claims 15 and 18 are indefinite because it is unclear how long the process takes. Applicants would like to point out that claim 18 has been amended to further clarify the length of the processes in question. Claim 18 now recites “wherein the process, including treatment of the pelt prior to fatliquoring, is completed within about 5 days.” Support for this amendment can be found in Figure 1. Applicants submit that claim 15 now recites the length of time required to perform the disclosed steps, whereas claim 18 recites the length of time required to treat the pelt, *i.e.*, delime and/or bate the pelt, in addition to the time required to perform the disclosed steps.

Based upon the foregoing arguments, Applicants respectfully submit that the rejections under 35 U.S.C. § 112, second paragraph, have been obviated, and request that they be withdrawn.

### 3. The Claims are not Obvious

The Examiner has rejected claims 1, 3, 6, 8-10, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,620,748 to Birkhofer *et al.* (“Birkhofer”). The Examiner states that:

“Birkhofer *et al.* disclose a process of treating a pelt with a fat liquor at a pH of 5.0 (applicant’s claimed range is 5.0-8.5) with a fat liquor at 40°C. (applicant’s claimed range is 20-55°C.) and stirring (drumming), and then further treating with 3% (applicant claims 4-24%) of a synthetic tanning agent and then adjusting the pH to 3.6 (applicant claims adjusting to pH of 3.5-4.5) the and finishing in a conventional manner.”

The Examiner argues that Birkhofer teaches all of the limitations of the rejected claims, except for: (a) the use of a delimed and/or bated pelt; (b) use of 2-6% w/w fat liquor, where Birkhofer uses about 8%; and (c) stirring for 3 hours, where Birkhofer stirs for 30 minutes. The Examiner argues that it would be obvious to a person having skill in the art to modify Birkhofer with the missing limitations, based upon the disclosure in Birkhofer.

Applicants submit that the claims, as amended, are not obvious in view of Birkhofer because the Examiner has not set forth a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, the Examiner must meet three criteria. The Examiner must establish that (1) there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there is a reasonable expectation of success; and (3) the prior art reference (or references when combined) teach or suggest all the claim limitations. See MPEP §§ 706.02(j) and 2143. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q2d 1438 (Fed. Cir. 1991).

The process disclosed in Birkhofer specifically calls for using “[c]hrome tanned cattlehide leather” and states that the polymers used for fatliquoring in Birkhofer “are suitable for treating any conventional tanned hide.” See Birkhofer, col. 5, lines 28-29, and col. 7, lines 11-43. In contrast, claim 1, as amended, recites “treating an untanned pelt.” Birkhofer does not disclose that the polymers may be used to fatliquor an untanned pelt. Accordingly, Birkhofer does not disclose all of the limitations of the present invention because it does not teach the limitation of using an untanned pelt.

Additionally, there is no suggestion or motivation to perform the process disclosed by Birkhofer on an untanned hide. Similarly, a person of ordinary skill in the art would have no reasonable expectation of success if they were to treat an untanned hide with the process disclosed by Birkhofer. Typically, conventionally processed leather is chrome tanned, which involves, among other steps, pickling, chrome tanning, basification, and neutralization steps which occur prior to the fatliquoring step. See specification at pages 2-4, para. 0002-0003. Birkhofer does not modify this conventional procedure, but merely provides alternative agents for fatliquoring pelts. See Birkhofer at col. 1, lines 31-33. As noted above, Birkhofer specifically calls for the use of chrome tanned hides, and states that the polymers are suitable for treating conventional tanned hides. Accordingly, Birkhofer provides no suggestion or motivation to skip the chrome tanning step and to utilize untanned pelts, nor would a person of ordinary skill in the art have a reasonable expectation of success if they were to fatliquor an untanned pelt.

With regard to claim 17, Applicants would like to point out that the process described in Birkhofer begins with chrome tanned leather. See Birkhofer at col. 7, lines 11-43. As pointed out above, implicit in the chrome tanning procedure are the steps of pickling, chrome tanning, basification, and neutralization. See specification at page 2, lines 11-12. Because Birkhofer utilizes chrome tanned pelts, the leather produced by Birkhofer's method have been subjected to the steps of pickling, chrome tanning, basification, and neutralization. In contrast, the claim 17 calls for leather that is not subjected to pickling, chrome tanning, basification, and neutralization. In order to more particularly point out this difference, claim 17 has been amended to recite "wherein the pelt is not subjected to pickling, basification, acid washing, rechroming, and neutralization steps." Support for this amendment can be found in Figure 1, and in the

specification at page 6, para. 0011. Accordingly, Birkhofer does not teach all of the limitations of claim 17 because the pelts used in Birkhofer have been chrome tanned, and therefore have been subjected to pickling, chrome tanning, basification, and neutralization.


Based upon the foregoing arguments, Applicants respectfully submit that the Examiner has failed to prove *prima facie* case of obviousness, and therefore claims 1, 3, 6, 8-10, 17, and 18 are not obvious in view of Birkhofer. Applicants request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

### CONCLUSION

Entry of the foregoing amendments and remarks into the file of the above-identified application is respectfully requested. The Applicant believes that the invention described and defined by claims 1-20, as amended, are patentable over the rejections of the Examiner. Withdrawal of all rejections and reconsideration of the amended claim is requested. An early allowance is earnestly sought.

Respectfully submitted,

BAKER BOTTS L.L.P.

  
Van Nguyen  
Patent Office Reg. No. 56,571

Attorney for Applicants  
BAKER BOTTS L.L.P.  
30 Rockefeller Plaza  
New York, NY 10112-4498  
(212) 408-2500